

# TESTA, HURWITZ & THIBEAULT, LLP

ATTORNEYS AT LAW

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## TELECOPY COVER SHEET

*Equipment Operator Contact Number: 617-248-7001. Please call if you do not receive all the pages.*

**Date:** March 28, 2003

**TO:** **Name:** Examiner David M. Shay  
(Art Unit: 3739)

**Company:** USPTO, Technology Center 3700

**Address:** Washington, D.C. 20231

**Telephone:** (703) 308-2215

**Fax:** (703) 872-9302

**FAX RECEIVED**

MAR 28 2003

GROUP 3700

**FROM:** **Sender:** Duan Wu

**Telephone:** 617 248-7808

**Fax:** 617-790-0298

**Number of Pages INCLUDING This Cover Sheet:** 34

**Client:** BSC-011 (1002/19)

**RE:** Application 08/922,263; Filed 9/2/97

**Comments:** As discussed over the phone on March 26, 2003, enclosed is proof of a prior submission of Amendment and Response.

This facsimile is subject to attorney-client privilege and contains confidential information intended only for the person(s) named above. If you have received this facsimile in error, please notify us immediately by telephone and destroy the original transmission without making a copy.

**Sent by** \_\_\_\_\_ **Date Sent** \_\_\_\_\_ **Time Sent** \_\_\_\_\_

1102595

PATENT  
Attorney Docket No. BSC-011  
(1002/19)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Crowley CONFIRMATION NO.: 1365  
SERIAL NO.: 08/922,263 GROUP NO.: 3739  
FILING DATE: September 2, 1997 EXAMINER: David M. Shay  
TITLE: Interventional Photonic Energy Emitter System

FAX RECEIVED

MAR 28 2003

GROUP 3700

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence, and any document(s) referred to as attached hereto, is/are being transmitted to the United States Patent and Trademark Office, Technology Center 3700, Facsimile No. (703) 872-9302 on 28<sup>th</sup> day of March, 2003.

  
Diane Racicot

Attached hereto is/are:

1. Request to Withdraw Holding of Abandonment (2 pgs.);
2. 31 pages of Previously filed papers including;
  - Express Mail Mailing Label No. EL956538926US dated 11/20/02 (1 pg);
  - Transmittal Form (1 pg.);
  - Fee Transmittal Form (1 pg.);
  - Amendment and Response (18 pgs.);
  - Copies of Forms PTO 1449 (6 pgs.);
  - Petition of Extension of time (1 pg.);
  - Check in the amount of \$110.00;
  - Return postcard (1 pg.)
  - Date-Stamped return postcard (1 pg.)

2600330

Received from &lt; &gt; at 3/28/03 2:24:24 PM [Eastern Standard Time]

PATENT  
Atty. Docket No.: BSC-011  
(1002/19)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT: Crowley CONFIRMATION NO.: 1365  
SERIAL NO.: 08/922,263 GROUP NO.: 3739  
FILED: September 2, 1997 EXAMINER: David M. Shay  
TITLE: Interventional Photonic Energy Emitter System

Technology Center 3700  
Commissioner for Patents  
Washington, D.C. 20231

Request To Withdraw Holding Of Abandonment

Sir:

Applicant submits this request in response to the receipt of a Notice of Abandonment mailed on March 11, 2003. Applicant believes that no fee is required for consideration of this paper. However, should a fee be due, the Commissioner is hereby authorized to charge Attorney Deposit Account No. 20-0531.

Contrary to what is indicated in the Notice of Abandonment, Applicant timely filed, by "Express Mail" on November 20, 2002, a proper reply to the non-final Office action of July 24, 2002. Proof of the timeliness of the filing under 37 C.F.R. § 1.10(e) is attached to this Request and includes the following:

- Copies of papers filed via Express Mail on November 20, 2002, including "Express Mail" mailing label EL956538926US with the "date-in" clearly marked as 11-20-02, Transmittal form, Fee Transmittal Form, Amendment and Response, previously submitted form PTO-1449, Petition for Extension of Time under 37 CFR 1.136(a), a check of \$110.00 for a one-month extension of time and a return receipt postcard (each document bearing the "Express Mail" mailing label number EL956538926US as required by 37 CFR 1.10(b));

U.S.S.N. 08/922,263  
Request to Withdraw Holding of Abandonment  
Page 2

Copy of the above postcard returned with a stamp by the Mail Room of the U.S. Patent and Trademark Office with a date of November 20, 2002.

Applicant wishes to thank the Examiner for checking the PTO record on March 26, 2003, during a telephone call from Applicant's attorney Duan Wu. The Examiner acknowledged that record indicated that the above-mentioned check of \$110.00 was cashed by the Patent Office on November 20, 2002.

In view of these submissions, Applicant respectfully requests withdrawal of the holding of abandonment, reinstatement of the application, and consideration of the Amendment and Response filed on November 20, 2002. If necessary, the office is authorized to treat this request as a petition to withdraw the abandonment holding pursuant to 37 C.F.R. §§ 1.181(a) and 1.10(e).

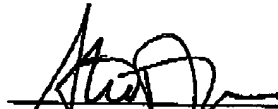
Date: March 28, 2003

Tel. No. (617) 310-8108  
Fax No. (617) 248-7100  
Testa, Hurwitz, & Thibault, LLP  
High Street Tower  
125 High Street  
Boston, MA 02110

Attachments

THT\1002\19.2599985\_1

Respectfully submitted,

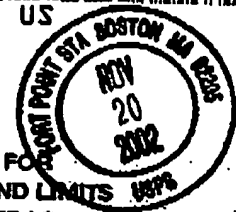
  
Steven J. Frank  
Attorney for Applicants  
Reg. No. 33,497



# POST OFFICE TO ADDRESSEE



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<b>FROM: (PLEASE PRINT)</b> TESTA HURNITZ & THIBEAULT LLP 125 HIGH ST FL 20 BOSTON MA 02110-2725 697:AD		<b>TO: (PLEASE PRINT)</b> Commissioner for Patents Washington, DC 20231	

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com

## Express Mail Mailing Label No. EL956538926US

TRANSMITTAL  
FORM

Application Serial Number	08/922,263
Filing Date	September 2, 1997
First Named Inventor	Crowley
Group Art Unit	3739
Examiner Name	D. Shay
Attorney Docket No.	BSC-011
BATCH NO. (after allowance)	Not applicable
Patent No.	Not applicable
Issue Date	Not applicable

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Check Attached <input type="checkbox"/> Copy of Fee Transmittal Form <input checked="" type="checkbox"/> Amendment/Response (18 pgs.) <input type="checkbox"/> Preliminary <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets ____] <input checked="" type="checkbox"/> Petition for Extension of Time (1 pg.) <input type="checkbox"/> Information Disclosure Statement <input checked="" type="checkbox"/> Copies of previously filed Form PTO-1449 (6 pgs.) <input type="checkbox"/> Copies of IDS Citations <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Sequence Listing submission <input type="checkbox"/> Paper Copy/CD <input type="checkbox"/> Computer Readable Copy <input type="checkbox"/> Statement verifying identity of above	<input type="checkbox"/> Copy of Notice to File Missing Parts of Application (PTO-1553) <input type="checkbox"/> Formal Drawing(s) <input type="checkbox"/> Request For Continued Examination (RCE) Transmittal <input type="checkbox"/> Associate Power of Attorney <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> CD(s) for large table or computer program <input type="checkbox"/> Amendment After Allowance <input type="checkbox"/> Request for Certificate of Correction <input type="checkbox"/> Certificate of Correction (in duplicate)	<input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences <input type="checkbox"/> Appeal Brief (in triplicate) <input type="checkbox"/> Status Inquiry <input checked="" type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8 <input type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8 <input type="checkbox"/> Additional Enclosure(s) (please identify below)
--	---	--


## CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator  
 Testa, Hurwitz & Thibault, LLP  
 High Street Tower  
 125 High Street  
 Boston, MA 02110  
 Tel. No.: (617) 248-7000  
 Fax No.: (617) 248-7100

## SIGNATURE BLOCK

Date: November 20, 2002  
 Reg. No. 33,497  
 Tel. No.: (617) 310-8108  
 Fax No.: (617) 248-7100

Respectfully submitted,

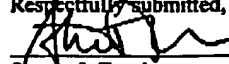
  
 Steven J. Frank  
 Attorney for Applicants  
 Testa, Hurwitz & Thibault, LLP  
 High Street Tower  
 125 High Street  
 Boston, MA 02110

2534271

## Express Mail Mailing Label No. EL956538926US

FEE TRANSMITTAL  
FY 2003

Complete if Known	
Application Serial Number	08/922,263
Filing Date	September 2, 1997
First Named Inventor	Crowley
Group Art Unit	3739
Examiner Name	D. Shay
Attorney Docket No.	BSC-011

METHOD OF PAYMENT		FEE CALCULATION (continued)																																						
1. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other		3. ADDITIONAL FEES																																						
2. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531. <input type="checkbox"/> Required Fees (copy of this sheet enclosed). <input checked="" type="checkbox"/> Additional fee required under 37 CFR 1.16 and 1.17. <input checked="" type="checkbox"/> Overpayment Credit.		Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid																																			
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		50	25	Surcharge - late provisional filing fee or cover sheet																																				
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		400	200	Extension for reply within second month																																				
		920	460	Extension for reply within third month																																				
		1440	720	Extension for reply within fourth month																																				
		1960	980	Extension for reply within fifth month																																				
		320	160	Notice of Appeal																																				
		320	160	Filing a brief in support of an appeal																																				
		280	140	Request for oral hearing																																				
		130	130	Petitions to the Commissioner																																				
		180	180	Submission of Information Disclosure Statement																																				
		740	370	Filing a submission after final rejection (37 CFR 1.129(a))																																				
		740	370	For each additional invention to be examined (37 CFR 1.129(b))																																				
		100	100	Certificate of Correction for applicant's error																																				
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1. FILING FEE		SUBTOTAL (3) (\$ 110.00)																																						
<table border="1"> <thead> <tr> <th>Large Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>740</td> <td>Utility filing fee</td> <td></td> </tr> <tr> <td>330</td> <td>Design filing fee</td> <td></td> </tr> <tr> <td>160</td> <td>Provisional filing fee</td> <td></td> </tr> </tbody> </table>		Large Entity Fee (\$)	Fee Description	Fee Paid	740	Utility filing fee		330	Design filing fee		160	Provisional filing fee																												
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<table border="1"> <thead> <tr> <th>Claims Remaining After Amend.</th> <th>Highest No. Previously Paid For</th> <th>Present Extra</th> <th>Rate</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>Total 45</td> <td>47</td> <td>= 0</td> <td>x \$ 18.00 =</td> <td>0</td> </tr> <tr> <td>Indep. 5</td> <td>5</td> <td>= 0</td> <td>x \$ 84.00 =</td> <td>0</td> </tr> <tr> <td colspan="4"><input type="checkbox"/> First Presentation of Multiple Dep. Claim</td> <td>+ \$280.00 =</td> </tr> <tr> <td colspan="4">TOTAL:</td> <td>(5)</td> </tr> <tr> <td colspan="4">SMALL ENTITY DISCOUNT:</td> <td>(5)</td> </tr> <tr> <td colspan="4">SUBTOTAL (2) (\$)</td> <td>0</td> </tr> </tbody> </table>		Claims Remaining After Amend.	Highest No. Previously Paid For	Present Extra	Rate	Fee Paid	Total 45	47	= 0	x \$ 18.00 =	0	Indep. 5	5	= 0	x \$ 84.00 =	0	<input type="checkbox"/> First Presentation of Multiple Dep. Claim				+ \$280.00 =	TOTAL:				(5)	SMALL ENTITY DISCOUNT:				(5)	SUBTOTAL (2) (\$)				0				
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CORRESPONDENCE ADDRESS		SIGNATURE BLOCK																																						
Direct all correspondence to: Patent Administrator Testa, Hurwitz & Thibault, LLP High Street Tower-125 High Street Boston, MA 02110 Tel. No.: (617) 248-7000 Fax No.: (617) 248-7100		Respectfully submitted,  Steven J. Frank Attorney for the Applicants Testa, Hurwitz & Thibault, LLP High Street Tower-125 High Street Boston, MA 02110																																						

2534258

03/28/03 FRI 14:35 FAX

033

**Testa, Hurwitz & Thibault, LLP**

125 High Street  
Boston, MA 02110

Fleet Bank, N.A.  
Boston, Massachusetts 02110

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Date:

November 20, 2002

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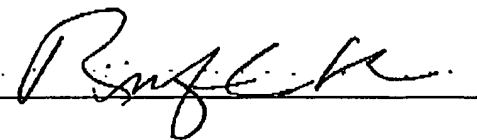
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Express Mail Label No. EL956538926US

U.S.S.N. 08/922,263

Docket No. BSC-011



SECURITY FEATURES INCLUDED. DETAILS ON BACK.

⑈ 214582⑈ ⑆011000390⑆512⑈38317⑈

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<u>Invoice Num</u>	<u>Invoice Date</u>	<u>Reference</u>	<u>Invoice Amount</u>	<u>Discount Taken</u>	<u>Amount Paid</u>
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Totals:			\$110.00	\$0.00	\$110.00



BSC-011 (1002/19)

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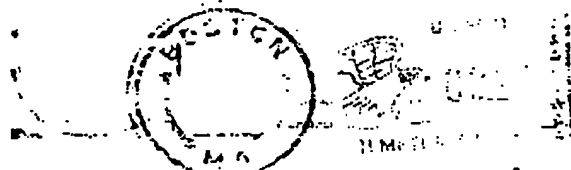
Name of Applicant: Crowley  
Intf. or Serial Number 08/922,263  
Atty: SJFrank/DWu  
Date: November 20, 2002

2534278

BSC-011 (1002/19)

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Name of Applicant: Crowley  
Intf. or Serial Number 08/922,263  
Atty: SJFrank/DWu  
Date: November 20, 2002  
2534278



Patent Administrator  
Intellectual Property Department  
Testa, Hurwitz & Thibault LLP.  
125 High Street  
Boston, MA 02110-2704

TH&amp;T - 10

